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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,914	03/16/2005	Rainer Heller	2002P11020WOUS	9070

7590 09/22/2009

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Intellectual Property Department
170 Wood Avenue South
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EXAMINER	
WU, JUNCHUN	

ART UNIT	PAPER NUMBER
2191	

MAIL DATE	DELIVERY MODE
09/22/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/527,914	**Applicant(s)** HELLER ET AL.	
	Examiner JUNCHUN WU	**Art Unit** 2191	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *21, 24-29,31-36, and 38*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Wei Y Zhen/
Supervisory Patent Examiner, Art Unit 2191

1. Applicant argued on claims 21 and 29
The reference Gloudeman does not disclose "programming environment to create a device-independent functionality among automation devices in an automation system" described on the page 1 of Remarks.

Examiner answer:
Gloudeman discloses in col.2 line 62 – col.3 line 6 "The application framework of the invention provides standard object types, discussed more fully below. Instances of the standard object types are created by the application development tool and then distributed to devices on the building automation system. As noted above, such devices can range from simple, single purpose controllers to more powerful master controllers or operator work stations. Standard objects are the basic components used to construct assembled objects or applications. Standard objects may also be created and downloaded to devices on the system to serve as independent, standalone entities."

From the foregoing descriptions, those standard objects (interpreted as functionality) created by the application development tool and distributed to device on the automation system is served as independent entities. That is examiner's interpretation for "programming environment to create a device-independent functionality among automation devices in an automation system"

2. Applicant argued on claims 21 and 29
None of the reference discloses or suggests the feature of providing a functionality among automation devices having different command sets described on the page 2 of remarks.

Examiner Answers:
Gloudeman discloses in col.4 lines 22-40 "The command component provides a somewhat related function with respect to certain methods of the standard object that are available for execution through the user interface. Commands represent a subset of the available methods defined in an object. Commands are methods that are visible to outside objects, and to the user interface, so that they can be executed by another object or from the user interface by sending a message to the object. The command component encapsulates the logic 60 performed by these externally visible methods. The commands are also defined in terms of command parameters 62, parameter properties 63 and command properties 64. Parameter properties in turn include data types 65. Similar to the attribute properties 52, these parameter properties 62 and command properties 64 are used to define the available commands so that they can be flexibly changed in developing different standard objects in the application framework.

Further, Gloudeman further discloses "standard object" in col.3 lines 20-24 "Although standard objects, themselves, reside in a single device, complex distributed systems are possible because the application framework defines a communication mechanism that allows standard objects to send messages to one another." Thus, from the foregoing description, commands (or different commands) can be flexibly changed in developing different standard objects (i.e. reside in devices) in the application framework.

3. Applicant argued on claims 21 and 29
The reference Gloudeman does not disclose "translate solutions into an intermediate language in a runtime framework for further translation into different instructions for automation device in a different automation system" described on the pages 2 and 3 of remarks.

Examiner Answers:
a compiler for translating the solutions into an intermediate language in a runtime framework (col.3 lines 16-32 "The development system includes a real-time compiler for generating p-code to be executed on the target system. The target system, e.g., the node controller, runs the real-time kernel … The real-time compiler generates p-code from the combination of event triggers, event actions and program logic making up the user's application. Based on the program logic as expressed in the p-code, various actions are taken in response to changes in the values of the external input signals and/or entities. The real-time kernel functions to implement a state machine that receives inputs and generates outputs. The actions taken by the system are represented as a sequence of frames with each frame representing a unit of action.")
In here, Gloudeman mentioned "based on the program logic as expressed in the p-code, various actions are taken in response to changes in the values of the external input signals and/or entities." which implicitly disclosed various actions (i.e. different instruction) for different input signals and entities (i.e. automation devices)

for further translation into different instructions for automation devices in different automation systems (col.4 lines 56-62 "The action execution unit performs a method comprising the steps of reading the p-code contents of a frame, analyzing the p-code, reading the values of external input signals and/or internal entities, and performing the command embodied in the p-code, generating any output signals in accordance with the command, and modifying any entity values in accordance with the command." & Col.4 lines 63-67 "In addition, there is provided in accordance with the present invention, in a computer system, a method of generating p-code for execution on a node controller as part of a control automation system for controlling a plurality of input and output (I/O) devices in accordance with a user's application." (which imply the different automation system) & Col.5 lines 30-37 "Further, there is provided in accordance with the present invention a node controller apparatus for use in a control automation system, the system for controlling a plurality of input and output (I/O) devices in accordance with a user's application, the system including a network for communicating control automation information, the apparatus comprising processor means for managing and controlling the operation of the node controller")